

ENTERED

January 04, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

EDDIE TAMEZ,

Plaintiff,

VS.

STEPHEN TOROK,

Defendant.

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CIVIL ACTION NO. 2:21-CV-00220

ORDER ADOPTING MEMORANDUM & RECOMMENDATION

Before the Court is Magistrate Judge Julie Hampton's Memorandum and Recommendation ("M&R"). (D.E. 44). The M&R recommends that the Court **GRANT** Defendant Stephen Torok's motion for summary judgment and **DISMISS** Plaintiff Eddie Tamez's deliberate indifference claims with prejudice for failure to exhaust. *Id.*

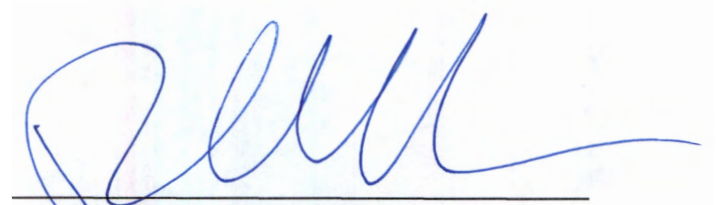
The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No objection has been filed.¹ When no timely objection has been filed, the district court need only determine whether the Magistrate Judge's M&R is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Powell v. Litton Loan Servicing, LP*, No. CIV. A. H-14-2700, 2015 WL

¹ On December 27, 2022, Plaintiff filed a letter entitled "objection." (D.E. 45). In the letter, Plaintiff indicates that he wrote "3 grievances" but that each time he wrote a grievance, "LT. Randolph" would tell Plaintiff that he lost it and to write another one. *Id.* at 1. However, Plaintiff does not state what these grievances were, including whether they were objections to the M&R. *Id.* Additionally, Plaintiffs' letter does not address the M&R or Defendant's motion for summary judgment. *Id.* As such, even if the Court construed this letter as an objection to the M&R, the objection was not directed to any portion of the M&R and thus would not impact the Court's decision to adopt the M&R.

3823141, at *1 (S.D. Tex. June 18, 2015).

Having carefully reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R in its entirety. (D.E. 44). Accordingly, the Court **GRANTS** Defendant's motion for summary judgment. (D.E. 30). The Court **DISMISSES** Plaintiff's deliberate indifference claims with prejudice against Defendant for failure to exhaust. (D.E. 1; D.E. 10). A final judgment will be entered separately.

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas
January 4th, 2023